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OFFICE OF THE
EXECUTIVE SECRETARY

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37219

IN RE: *Universal Service for Rural Areas --- The Generic Docket*
Docket No. 00-00523

Dear David:

Enclosed for filing are Reply Comments filed on behalf of Southeastern Competitive Carriers Association ("SECCA") in the above-referenced docket.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/nl
Attachment

POSTED
9-25-00

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**IN RE: *Universal Service for Rural Areas --- The Generic Docket*
 Docket No. 00-00523**

**REPLY COMMENTS
OF THE SOUTHEASTERN COMPETITIVE CARRIERS ASSOCIATION**

The Southeastern Competitive Carriers Association ("SECCA") submits the following comments in reply to the Comments of the Rural Independent Coalition ("Coalition") filed in this docket on September 5, 2000.

Summary

1. The Authority's prior rulings in Docket 97-00888, *In Re: Universal Service Proceeding*, both Phase I and Phase II, are equally applicable to all incumbent, local exchange carriers, both "rural" and "non-rural," absent a carrier-specific demonstration of special circumstances.

2. A universal service mechanism is not intended to be a substitute for a ratemaking proceeding nor is it supposed to guarantee that incumbent LECs will always be able to maintain current revenues or profits. Any universal service mechanism adopted by the Authority must consider both the carriers' costs of providing service and whether the providing carrier is earning a just and reasonable return on its intrastate operations.

3. Although the TRA may now determine the general principles under which a universal service fund will operate, there is no logical or legal requirement that such a fund be

established until “after” the markets of the participating LECs “are opened to competition.” T.C.A. § 65-5-207.

4. While the TRA unquestionably has jurisdiction over the interLATA toll settlement contracts between BellSouth and the independent LECs (and has periodically exercised that jurisdiction over the years in order to regulate payments to the independents) SECCA takes no position at this time as to whether those contracts should remain in effect pending the outcome of this proceeding.

Discussion

1. Many of the Coalition’s arguments that “rural” carriers (*i.e.*, anyone other than BellSouth and UTSE) have unique USF concerns were presented to the TRA in docket 97-00888 and, for the most part, were rejected by the agency. The Coalition should not be permitted to re-litigate those issues in this proceeding.

For example, the TRA has defined “core” telephone service to mean the primary access line of a residential customer, including touch-tone and usage charges. That definition is consistent with, if not required by, the definition of “universal service” in T.C.A. § 65-5-207(a). The Coalition, however, argues that “universal service” should include “all classes of users and all lines” *i.e.*, all services offered by the Coalition’s members. Comments, at 5.

The Coalition made and lost the same argument in Phase I of docket 97-00888 (Comments, at 5, footnote 3). The Coalition’s petition is clearly at odds with the statutory definition of universal service which is not even referenced in the Coalition’s Comments. There is no reason to reconsider the Authority’s decision on this point.

Similarly, the TRA has already determined that a generic cost model should be adopted for all incumbent LECs in order to identify “high cost” areas. For purposes of creating a universal service fund, there is no reason to believe that BellSouth or UTSE provide service in rural areas in a manner that is significantly different from the technology or network design parameters used by members of the Coalition. Unless an individual LEC can demonstrate unique circumstances that warrant special treatment, there is no reason for the Authority to create one type of USF for BellSouth and UTSE and another type of fund for the members of the Coalition. There is certainly nothing in the generalized, non-specific Comments of the Coalition that would justify such special treatment.

2. As pointed out in the Reply Comments filed by BellSouth, the Coalition’s “Universal Service Rate Design Restructuring Plan” is nothing but a “make whole” plan designed to guarantee that, despite competition, Coalition members will always be able to maintain current revenue/profit levels without having to file a rate case.

That is not the purpose of a Universal Service Fund. SECCA agrees with BellSouth’s Comments on this issue and will not repeat them here.

3. Under state law, T.C.A. § 65-5-207(a), the TRA’s universal service obligations are not triggered until “after the local telecommunications markets are opened to competition.”

At this time, the Coalition’s members not only continue to be monopoly providers but are strongly opposing effort by competitive, local exchange carriers to enter those markets. It can hardly be argued that there is a need for a universal service fund to be created at this time in order to protect the Coalition’s members from a non-existent competitive threat.

Four years ago, the Tennessee Public Service Commission — acting in response to a timetable required by state law — issued an order explaining that there was no need at that time

to establish a state USF but that the agency would monitor competition as it developed and measure its impact on universal service.

A similar response may be appropriate here. Some Coalition members may not face any competition in the foreseeable future. Others may face competition within a matter of months. Once the Coalition's members are exposed to competition, the TRA should monitor how competition affects each carrier's rate-of-return and each carrier's ability to maintain service at affordable rates. Even if the independent LECS should have a USF plan that is different from the plan used for BellSouth and UTSE, it makes little sense to adopt a "one size fits all" USF plan for the entire Coalition. And it makes no sense to create any special fund at this time.

4. Perhaps the principle reason that the TRA decided to open a new USF docket for "rural" carriers is the ongoing dispute between the Coalition members and BellSouth concerning intraLATA toll settlements.


SECCA takes no position at this time on the issue of intraLATA toll settlements or whether the existing contracts between BellSouth and the Coalition members should remain in effect pending the outcome of this proceeding.

Conclusion

It is SECCA's understanding that the Comments filed by the Coalition and the reply comments filed by other parties may or may not lead to the opening of a formal, contested case proceeding, but that, in any event, no final decisions will be made in this docket without such a formal

proceeding. If and when that occurs, SECCA will file testimony and participate fully as a party.

Respectfully submitted,

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 22nd day of September, 2000.

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